<u>REMARKS</u>

The present application was filed on December 14, 1999, with claims 1-59. Claims 1-59 are currently pending in the application. Claims 1, 41 and 54 are the independent claims.

Claims 1-12, 15-17, 41-51 and 54-56 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,269,149 (hereinafter "Hassell"). Claims 13, 14, 18-21, 52, 53 and 57-59 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hassell in view of U.S. Patent No. 6,327,660 (hereinafter "Patel"). Claims 22-40 are indicated as containing allowable subject matter.

In this response, Applicant respectfully traverses the §102(e) and §103(a) rejections. Applicant requests reconsideration of the present application in view of the following remarks.

With regard to the §102(e) rejection, Applicant initially notes that the Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, §2131, specifies that a given claim is anticipated "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," citing <u>Verdegaal Bros. v. Union Oil Co. of California</u>, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the "identical invention . . . in as complete detail as is contained in the . . . claim," citing <u>Richardson v. Suzuki Motor Co.</u>, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The present invention is generally directed to methods for establishing secure communications between users employing endpoints in a system which includes one or more security zones each having an associated Zone Keeper. An arrangement of this type is referred to in the specification as a dual-tier security architecture. With reference to independent claim 1, this claim more particularly specifies that a first Zone Keeper, associated with a first security zone including a first endpoint, determines whether a requested secure communication, between a caller utilizing the first endpoint and a callee utilizing a second endpoint, is an intra-zone or an inter-zone communication. If the requested communication is an intra-zone communication, both the first and second endpoints are in the same security zone, and the first Zone Keeper in conjunction with the first and second endpoints in the first security zone establishes the secure communication between the caller and the callee. If the requested communication is an inter-zone communication, the first

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and second endpoints are in first and second security zones, respectively, the first Zone Keeper sends a request message to a second Zone Keeper associated with the second security zone, and the secure communication is established between the zones utilizing the first and second Zone Keepers and the associated first and second endpoints.

The Hassell reference relied upon by the Examiner fails to meet the above-noted limitations of independent claim 1. For example, there is no mention whatsoever in Hassell regarding the claimed security zones, each having an associated Zone Keeper, or the claimed determination as to whether a given requested secure communication constitutes an intra-zone or inter-zone communication. Thus, Hassell fails to teach or suggest a dual-tier security architecture of the type claimed.

In formulating the §103(a) rejection, the Examiner specifically relies on the teachings in Hassell at column 2, line 60, to column 3, line 20. This portion of the cited reference provides as follows:

In accordance with another aspect of the present invention, a method for establishing a secured telecommunications link between a calling party and a called party is provided. In accordance with this aspect of the invention, the method includes the steps of receiving a calling from a remote user, identifying the caller identification number, and using caller identification number to access a lookup table. The method further includes the steps of determining whether a profile exists in the lookup table that corresponds to the identified caller identification element. If so, the method further confirms from information provided in the lookup table, whether that user is entitled to access the system. If so, then the method directs the system to establish the connection with the remote user. In a preferred embodiment, the system may provide an added level of security by requiring the remote user to enter a password, as well.

Preferably, this aspect of the invention includes the steps of receiving a signal from a calling party that is requesting the establishment of a communication link, and examining call setup information within the received signal for the second calling party to identify the telephone number of the second calling party. The method further includes the steps of

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accessing a memory storage area using the telephone number of the second calling party to retrieve information relating to the calling party, and evaluating security data of the retrieved information. If the security data permits the establishment of a connection, then the method establishes a communication link with the calling party.

It is readily apparent that the relied-upon passages quoted above fail to make any reference to security zones or a determination as to whether a given communication is an inter-zone or intra-zone communication. By treating all communications in substantially the same manner, without regard to the relationship of the associated endpoints to one or more security zones, Hassell actually teaches away from the invention as recited in claim 1.

The Examiner also makes reference to column 4, lines 29-33, and to the drawing in FIG. 1 of Hassell which shows a first or calling endpoint 12 and a second or called endpoint 14 communicating over a network 16. Again, there is no teaching or suggestion here or anywhere else in Hassell regarding endpoints 12 or 14 potentially being in different security zones associated with respective Zone Keepers, nor any determination as to whether a given requested secure communication is an intra-zone communication or an inter-zone communication.

Since independent claim 1 includes limitations which are not disclosed in Hassell, that reference is not anticipatory of claim 1.

Similarly, Hassell fails to teach or suggest the security zone, Zone Keeper and communication protocol limitations of independent claims 41 and 54, and in fact teaches away from the claimed arrangements by teaching to use different arrangements than those specifically claimed in order to set up a secure communication between endpoints.

The rejected dependent claims are believed allowable for at least the reasons identified above with regard to their respective independent claims, and are also believed to define separately-patentable subject matter.

With regard to the §103(a) rejection, a proper *prima facie* case of obviousness requires that the cited references when combined must "teach or suggest all the claim limitations," and that there be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references or to modify the reference

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teachings. See Manual of Patent Examining Procedure (MPEP), Eighth Edition, August 2001, §706.02(j).

The Patel reference cited by the Examiner fails to overcome the fundamental deficiencies of Hassell as applied to the independent claims. Thus, the proposed combination fails to "teach or suggest all the claim limitations" as is required for establishment of a proper *prima facie* case.
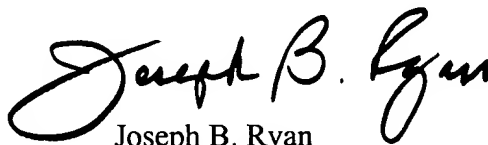
Furthermore, the Federal Circuit has stated that when patentability turns on the question of obviousness, the obviousness determination "must be based on objective evidence of record" and that "this precedent has been reinforced in myriad decisions, and cannot be dispensed with." In re Sang-Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). The Federal Circuit has further stated that "conclusory statements" by an examiner fail to adequately address the factual question of motivation, which is material to patentability and cannot be resolved "on subjective belief and unknown authority." Id. at 1343-1344. Applicant submits that the Examiner has failed to provide any objective evidence of motivation to combine Hassell and Patel, or to modify their teachings, to meet the claim limitations in question. The particular statement provided by the Examiner is on page 14, last paragraph, to page 15, first paragraph, and is as follows:

> The ordinary skilled person would have been motivated to add such security association 700 (in Hassell) because a communication channel is considered to be "secure" when (i) the modification of data transmitted through the communication channel can be detected, and (ii) the source of the transmitted data can be authenticated, and/or the confidentiality of the transmitted data is protected. Cryptographic techniques such as digital certificates, digital signatures, and the encryption/decryption of data are used to secure a communication channel.

There is no objective evidence of motivation here. The Examiner has instead provided only a conclusory statement of obviousness based on the type of "subjective belief and unknown authority" that the Federal Circuit has indicated is insufficient to support an obviousness rejection. The §103(a) rejection is therefore believed to be improper and should be withdrawn.

In view of the above, Applicant believes that claims 1-59 are in condition for allowance, and respectfully requests withdrawal of the §102(e) and §103(a) rejections.

Respectfully submitted,

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